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Chairman: Mr. Belinga-Eboutou ..... (Cameroon)

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The meeting was called to order at 10:20 a.m.

Agenda item 117: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

Draft resolution on the situation of human rights in Cambodia (A/C.3/58/L.75)

1. **Mr. De Barros** (Secretary of the Committee) said that, under the terms of paragraph 2 of section IV of draft resolution A/C.3/58/L.75, the General Assembly would urge the Secretary-General and the Government of Cambodia to take all the measures necessary for the early establishment of the Extraordinary Chambers and appealed to the international community to provide assistance, including financial and personnel support, to the Extraordinary Chambers in accordance with General Assembly resolution 57/228.

2. Since the establishment of the Khmer Rouge Tribunal was an operation to be funded from extrabudgetary resources, draft resolution A/C.3/58/L.75 did not have programme budget implications for the regular budget. As noted in the Secretary-General's report (A/57/769), the requirements would exceed $9 million for that activity, which depended entirely on voluntary contributions. To date, only a contribution of $45,000 had been received for the upcoming assessment mission.

3. **The Chairman** announced that Albania, Bulgaria, Cyprus, Greece, Estonia, Iceland, Lithuania, Luxembourg, Malta, New Zealand, Poland, Romania, Slovakia, Slovenia and Switzerland had become sponsors of the draft resolution.

4. **Mr. De Barros** (Secretary of the Committee) read out oral revisions made by the representative of Japan in introducing the draft resolution. In section III, under the heading "Administrative, legislative and judicial reform", the words "inter alia" should be inserted after the words "in July 2003" in paragraph 1. In section VI, paragraph 1, under the heading "Protection of women and children", the words "including sexual violence" should be replaced with the words "inter alia sexual violence".

5. **Mr. Sun** (Cambodia) noted that, although some parts of the draft resolution did not fully reflect the current situation in Cambodia, it would nevertheless contribute to the tireless efforts of the Government and people of Cambodia to build a democratic society and to improve the human rights situation in the country, which had been devastated by more than two decades of war. He was delighted to note that the tremendous achievements of the people and Government of Cambodia on those vital issues had been recognized and that the international community had a better understanding of the challenges facing the country in a number of areas and remained committed to providing valuable support to the people and Government of Cambodia in dealing with significant problems in all fields of development. He reiterated his Government's determination to continue to build a democratic nation where human rights would be respected and provide a better future for its people. He hoped that the draft resolution would be adopted by consensus.

6. **The Chairman** said he took it that the Committee wished to adopt draft resolution A/C.3/58/L.75, as orally revised, without a vote.

7. *It was so decided.*

8. **The Chairman** proposed that the Committee should take note of the following reports under sub-item 117 (b): report of the Secretary-General on the protection of migrants (A/58/121); note by the Secretary-General transmitting the interim report of the Special Rapporteur of the Commission on Human Rights on the protection of migrants (A/58/275); report of the Secretary-General on the right to development (A/58/276); report of the Secretary-General on human rights and unilateral coercive measures (A/58/279); note by the Secretary-General transmitting the report of the special representative of the Secretary-General on the situation of human rights defenders (A/58/380).

9. *It was so decided.*

10. **Ms. Zack** (United States of America) said that it was her delegation's understanding that the Committee was taking note of the reports consistent with General Assembly decision 55/488.

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/C.3/58/L.68/Rev.1 and A/C.3/58/L.82)

Draft resolution on the situation of human rights in Myanmar (A/C.3/58/L.68/Rev.1)

11. **The Chairman** invited the Committee to take action on draft resolution A/C.3/58/L.68/Rev.1 entitled "Situation of human rights in Myanmar" and drew attention to document A/C.3/58/L.82 containing a

statement of programme budget implications relating to the draft resolution.

12. The delegations of Albania, Andorra, Australia, Bulgaria, Estonia, Latvia, Malta, Republic of Korea and Romania had become sponsors of the draft resolution.

13. **Mr.** Kyaw Tint **Swe** (Myanmar) recalled that draft resolution A/C.3/58/L.68/Rev.1 had been revised by the representative of Japan on 21 November 2003 and that the statement of programme budget implications had also been revised on 21 November. He was referring to the activities described in the statement and not to the expenditure itself.

14. **Mr. De Barros** (Secretary of the Committee), reading out the revisions to the text said that in paragraph 4 (a) the words "and its consequences for the human rights situation in Myanmar" should be deleted. In paragraph 7 (a), the words "as well as" should be replaced by the word "including" and the words "in Myanmar" should be inserted after the word "process". Lastly, paragraphs 8 and 9 should be deleted.

15. **Mr.** Kyaw Tint **Swe** (Myanmar) said that the draft resolution, which had been on the Committee's agenda for years, was based on unsubstantiated allegations of anti-government groups and did not reflect reality. It was a blatant attempt to interfere in the domestic political process of Myanmar by politicizing human rights. The current year's resolution was even more intrusive and, if allowed to go unchallenged, would not only harm Myanmar's national security interests and infringe on its sovereignty, but would also create a dangerous precedent with far-reaching consequences for all developing countries. The text was greatly coloured by an unfortunate incident that had occurred on 30 May 2003 at Dabeyin, when followers of Daw Aung San Suu Kyi and local people had clashed. As a result, four persons had died and over 50 had been injured, dealing a serious blow to the national reconciliation process being implemented by his Government. The number of deaths had been confirmed by the Special Rapporteur on Human Rights, who had also confirmed that Daw Aung San Suu Kyi was no longer subject to any internal security laws. Those incidents notwithstanding, his Government had continued its national reconciliation and democratization process and the new Prime Minister of the country had launched on 30 August Myanmar's road map to democracy.

16. The draft resolution contained very disturbing language and many elements were completely unacceptable to his delegation, especially paragraphs 2 (e) and 4 (b), (c) and (e). It contained a litany of unfounded allegations and continued to lack fairness. While his Government was determined to promote the human rights of all the people in Myanmar and to implement the road map to democracy, it would not accept a resolution that had politicized human rights with the intention of exerting pressure on Myanmar's domestic political process and other matters which, under the Charter of the United Nations, were within the country's domestic jurisdiction. His delegation totally rejected all the unfounded allegations and dissociated itself from the draft resolution.

17. **Ms. Gunnarsdóttir** (Iceland) said that her delegation wished to become a sponsor of the draft resolution.

18. **The Chairman** said he took it that the Committee wished to adopt draft resolution A/C.3/58/L.68/Rev.1, as orally revised, without a vote.

19. *It was so decided.*

20. **Mr. Xie** Bohua (China) said that the Government of Myanmar had dedicated itself to the protection of the human rights and fundamental freedoms of its people, had actively made efforts to stabilize the situation and had announced the road map for the transition to democracy. In that regard, the international community should give more encouragement and support to the Government of Myanmar. Using a country-specific human rights resolution to exert pressure on Myanmar would not contribute to the solution of the problem.

21. **Ms. Tomar** (India) said that the Government of Myanmar had initiated steps towards democracy with the announcement of the road map for the transition to democracy. Myanmar had over the past decade successfully addressed the difficult issues of territorial integrity and national sovereignty and had initiated a national reconciliation process, while at the same time engaging with the United Nations system, including in the area of human rights. The efforts of Myanmar to move towards democracy should be supported by the international community through a process of active bilateral engagement.

22. **Mr. Boonpracong** (Thailand) said that any resolution relating to a country-specific human rights situation should reflect the facts in a balanced manner. The primary objective of such a resolution should be to

encourage the country concerned to further improve its human rights situation. Dialogue and reconciliation were constructive approaches in that regard. His delegation supported the efforts of Myanmar to improve the well-being of its people and to bring about national reconciliation and a transition to democracy. In that regard, it welcomed in particular the announcement by the Prime Minister of Myanmar of the road map for transition to democracy. The international community should stand ready to lend support to Myanmar in those efforts. Thailand also supported the efforts by the Secretary-General through his Special Envoy to facilitate the national reconciliation process in Myanmar. In that regard, Thailand welcomed the cooperation which the Government had accorded to the Special Envoy and to the Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in Myanmar in the discharge of their mandates.

23. **Ms. Pham Thi Nga** (Viet Nam), explaining her delegation's position, said that the draft resolution was unbalanced and did not reflect the progress made in the protection and promotion of human rights in Myanmar. The adoption of the draft resolution, an exercise in the politicization of human rights, did not serve the cause of human rights in Myanmar or elsewhere. The promotion of human rights could be achieved only through sincere dialogue and cooperation with a view to achieving mutual understanding.

24. **Mr. Dhakal** (Nepal), explaining his delegation's position, said that Myanmar had clearly taken steps to improve its human rights situation, including through its seven-step road map to democracy. The international community should recognize Myanmar's efforts to promote human rights and the difficulties encountered in meeting the expectations of some States. Developed countries must help those left behind to strengthen their national capacities so that all people might enjoy human rights.

25. **Mr. Amorós Núñez** (Cuba), explaining his delegation's position, said that the draft resolution, which failed to take into account the situation in Myanmar, was unbalanced and selective and in no way designed to promote or protect human rights. His delegation wished to highlight the lack of genuine international cooperation and dialogue with respect to the draft resolution.

Draft resolution on the situation of human rights in the Democratic Republic of the Congo (A/C.3/58/L.79/Rev.1)

26. **Mr. De Barros** (Secretary of the Committee) said that the mandates of the Special Rapporteurs of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo fell within a category of activities considered to be of a perennial nature. Because provisions for their activities and travel to field missions of members of the Working Group had already been included in the programme budget for the current biennium and in the proposed programme budget for the biennium 2004-2005, no additional appropriation would be required as a result of the adoption of the draft resolution.

27. **The Chairman** said that Romania and Switzerland had joined in sponsoring the draft resolution and that a separate recorded vote had been requested by the delegation of Uganda on the fourth preambular paragraph.

28. **Ms. Otiti** (Uganda), speaking in explanation of vote before the voting, said that the draft resolution recalled previous resolutions of the General Assembly and the Commission on Human Rights based on reports that relied heavily on unnamed sources, unsubstantiated allegations and hearsay. Those reports, which withheld the names of sources under the pretext of security concerns, had wilfully ignored the facts. Her delegation believed that the Democratic Republic of the Congo was moving forward with respect to human rights. Repeating past allegations served only to introduce falsehoods into the draft resolution, which her delegation could not accept.

29. *A recorded vote was taken on the fourth preambular paragraph of draft resolution A/C.3/58/L.79/Rev.1.*

In favour:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Bahamas, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg,

Mali, Malta, Mexico, Micronesia (Federated States of), Monaco, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Vincent and the Grenadines, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sudan, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against:

Guinea-Bissau, Myanmar, Rwanda, Uganda.

Abstaining:

Algeria, Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, China, Cuba, Democratic People's Republic of Korea, Djibouti, Egypt, Eritrea, Ethiopia, Fiji, Gambia, Ghana, Guyana, Haiti, India, Indonesia, Jamaica, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Namibia, Nepal, Niger, Nigeria, Oman, Pakistan, Philippines, Qatar, Saint Kitts and Nevis, Saint Lucia, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Sri Lanka, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Trinidad and Tobago, Tunisia, United Arab Emirates, United Republic of Tanzania, Zambia, Zimbabwe.

30. *The fourth preambular paragraph of draft resolution A/C.3/58/L.79/Rev.1 was adopted by 82 votes to 4, with 75 abstentions.*

31. **Mr. Roshdy** (Egypt), speaking also on behalf of China, Dominica, Kuwait, Malaysia, Myanmar, Nigeria, Saudi Arabia, Singapore, Sudan, Swaziland, and the United Arab Emirates, requested a separate recorded vote on paragraphs 3 (b) and 6 (e) of the draft resolution. It was regrettable that the sponsors were once again trying to impose their position on capital punishment in a General Assembly resolution. There was no international consensus on capital punishment, which was permissible under international law. While they respected the right of States to hold a different view on the issue, those States called for similar respect for their Governments' views. States had the sovereign right to decide on capital punishment. His delegation objected to the imposition by one group of States of its views as universal norms upon others. For those reasons, the separate vote had been requested on the two paragraphs and he invited delegations to vote against them.

32. **Mr. Cavallari** (Italy), speaking on behalf of the sponsors, said that he respected the wish of some delegations for a vote on separate paragraphs. Nevertheless, he reiterated the hope that the draft resolution as a whole would be adopted by consensus.

33. **Mr. Andrabi** (Pakistan), speaking in explanation of vote before the voting, said that his delegation had not joined those that had called for a separate vote, because it had not received instructions in time. Nevertheless, the death penalty was part of the legal system of Pakistan. Resolutions like the one under consideration should not be used to question the legal systems of States or to impose the legal system of one country on another. His delegation would therefore vote against paragraphs 3 (b) and 6 (e) of the draft resolution.

34. **Ms. Ng** (Singapore), speaking in explanation of vote before the voting, said that her delegation had consistently abstained in votes on country-specific human rights resolutions such as the one under consideration, because they were driven by political rather than human rights considerations.

35. She wished, however, to explain her Government's opposition to paragraphs 3 (b) and 6 (e). There was no consensus on the abolition of capital punishment under international law. The language on capital punishment in the draft resolution, which was drawn from a resolution of the Commission on Human Rights, was too prescriptive and intrusive, particularly in the paragraph calling for a moratorium on and gradual abolition of capital punishment. Her delegation disagreed with the disturbing practice on the part of many delegations of presenting the language of the Commission on Human Rights, a much less universal and representative body than the General Assembly, as agreed language in a General Assembly resolution.

36. **Mr. Zeidan** (Lebanon), speaking in explanation of vote before the voting, expressed his delegation's reservations regarding country-specific human rights

resolutions, particularly because of their selectivity, and said that it was disheartening that capital punishment remained a divisive issue given that it concerned the most sacred of rights and raised the question of retribution versus reform. Capital punishment had enjoyed a de facto moratorium for humanitarian reasons. His delegation would continue to abstain in votes on resolutions that made reference to capital punishment.

37. **Mr. Hoban** (Qatar), speaking in explanation of vote before the voting, said that, while the death penalty was controversial, States had the sovereign right to decide on capital punishment under international law. In the light of the diversity of cultures and civilizations, no State should attempt to impose its values on others. His delegation would therefore vote against the two paragraphs of the draft resolution.

38. *A recorded vote was taken on paragraphs 3 (b) and 6 (e) of draft resolution A/C.3/58/L.79/Rev.1.*

In favour:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against:

Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Benin, Brunei Darussalam, China, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Egypt, Eritrea, Ethiopia, Gambia, Guyana, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kuwait, Lesotho, Libyan Arab Jamahiriya, Malaysia, Maldives, Mauritania, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Qatar, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saudi Arabia, Senegal, Sierra Leone, Singapore, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Trinidad and Tobago, United Arab Emirates, United Republic of Tanzania, United States of America, Zimbabwe.

Abstaining:

Algeria, Azerbaijan, Belarus, Bhutan, Botswana, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Congo, Côte d'Ivoire, Djibouti, El Salvador, Fiji, Ghana, Haiti, Kazakhstan, Kenya, Lebanon, Madagascar, Malawi, Mali, Morocco, Namibia, Niger, Philippines, Russian Federation, South Africa, Tajikistan, Thailand, Togo, Tunisia, Uganda, Zambia.

39. *Paragraph 3 (b) and 6 (e) of draft resolution A/C.3/58/L.79/Rev.1 were adopted by 73 votes to 50, with 35 abstentions.*

40. **Ms. Zack** (United States of America) said that her delegation recognized that the Democratic Republic of the Congo had ratified the Statute of the International Criminal Court. Given the long-standing concerns of her Government about ICC, she proposed that paragraph 6 (g) of the draft resolution should be amended so that it would make no specific reference to the Court and read: "To comply with its treaty obligations and to continue to cooperate with the International Criminal Tribunal in Rwanda". Her delegation would support the adoption of the draft resolution as a whole by consensus as a demonstration of its continued concern for the improvement of the human rights situation in the Democratic Republic of the Congo.

41. *A recorded vote was taken on the United States amendment to paragraph 6 (g).*

In favour:

Micronesia (Federated States of), United States of America.

Against:

Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Barbados, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Canada, Chile, Costa

Rica, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Guinea-Bissau, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Jordan, Kenya, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Mauritius, Mexico, Monaco, Namibia, Nauru, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Suriname, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Zambia, Zimbabwe.

Abstaining:

Algeria, Armenia, Azerbaijan, Bangladesh, Belarus, Bhutan, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, China, Congo, Côte d'Ivoire, Egypt, Eritrea, Ethiopia, Guyana, Haiti, India, Indonesia, Israel, Jamaica, Kuwait, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mauritania, Mongolia, Morocco, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Philippines, Qatar, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Sri Lanka, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Tunisia, Uganda, United Arab Emirates.

42. *The United States amendment was rejected by 93 votes to 2, with 55 abstentions.*

43. **The Chairman** said that the Committee would proceed to vote on draft resolution A/C.3/58/L.79/Rev.1 as a whole.

44. **Mr. Roshdy** (Egypt), supported by **Ms. Ahmed** (Sudan), said that the Committee must proceed as indicated by the Chairman, unless a delegation appealed against that ruling.

45. **Mr. Andrabi** (Pakistan), speaking on a point of order, said that rule 129 of the rules of procedure stipulated that, if parts of a proposal were voted on separately, the parts of the proposal which were approved should be put to the vote as a whole.

46. **Ms. Uluiviti** (Fiji) recalled that at the 59th meeting the Chairman had given a different interpretation of rule 129, which she had supported. The term "by consensus" was not synonymous with the phrase "without a vote". The fact that a vote had been taken on parts of the draft resolution did not mean that a vote had to be taken on the draft resolution as a whole.

47. **Mr. Wenaweser** (Liechtenstein) asked whether any delegation had requested a vote on the draft resolution as a whole.

48. **The Chairman** invited the Committee to vote on the draft resolution as a whole.

49. **Mr. Wenaweser** (Liechtenstein) expressed surprise at the Chairman's refusal to answer his question, in variance with the spirit of transparency that had traditionally prevailed in the Third Committee.

50. **The Chairman** replied that under rule 129 there was no need for a vote to be requested and invited members to make general remarks on the draft resolution prior to the voting.

51. **Mr. Wenaweser** (Liechtenstein) said that his interpretation of rule 129 was different from the Chairman's ruling, against which his delegation appealed.

52. **The Chairman** invited the Committee, under rule 113, to vote on the Liechtenstein delegation's appeal against his ruling.

53. *A recorded vote was taken.*

In favour:

Albania, Andorra, Argentina, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Micronesia (Federated States of), Monaco, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, San Marino, Serbia

and Montenegro, Slovakia, Slovenia, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Against:

Algeria, Angola, Antigua and Barbuda, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, China, Colombia, Congo, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea-Bissau, India, Indonesia, Iran (Islamic Republic of), Jamaica, Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Morocco, Myanmar, Namibia, Nepal, Niger, Nigeria, Oman, Pakistan, Peru, Qatar, Republic of Moldova, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Sri Lanka, Sudan, Suriname, Syrian Arab Republic, Togo, Trinidad and Tobago, Uganda, United Arab Emirates, United Republic of Tanzania, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Abstaining:

None.

54. *The appeal against the Chairman's ruling was rejected by 82 votes to 70.*

55. **The Chairman** invited the Committee to vote on draft resolution A/C.3/58/L.79/Rev.1 as a whole.

56. **Mr. Begg** (New Zealand) said that, although the Chairman's ruling had been upheld in the vote, he requested a legal opinion as to which of the Chairman's conflicting interpretations of rule 129 would guide the Committee's future work.

57. **Mr. Ileka** (Democratic Republic of the Congo), speaking in explanation of vote before the voting, said that it was public knowledge that, with its eastern region long occupied by Rwanda and Uganda, his country was emerging from a long, harsh war that had caused untold suffering to the civilian population. The occupation had been marked by widespread, systematic violations of human rights and international humanitarian law and had caused the deaths of over three million Congolese in the occupied territory.

58. It was unrealistic to expect a new era of peace, stability, reconciliation and national unity to emerge with the establishment of transition institutions unless the crimes committed were investigated, those responsible identified and justice rendered. The draft resolution was strangely silent on his Government's request to the international community to establish an international criminal tribunal for the Democratic Republic of the Congo, with a view to ending the violence and impunity. The main message of the draft resolution was that the Congolese were beasts of burden who could be sent to the slaughterhouse at will and with impunity. The iniquity of the drafters was manifest in paragraph 8 of the draft resolution, which clearly showed that the international community would accept no responsibility and take no action.

59. The draft resolution disregarded the urgent need to prosecute both nationals and foreigners who had committed or were committing massive human rights violations across the nation, massacred civilians and systematically looted the country's resources. It had missed an opportunity to send to those intending to repeat such violations the clear message that they would no longer go unpunished. The new momentum on the ground regarding unambiguous substantive issues should have been incorporated into the draft resolution.

60. The European Union, which had seen fit to give human rights lessons to sovereign independent States, was well aware that the restoration of justice in his country called for an effective mechanism to fight impunity, starting with the rehabilitation of the basic judicial infrastructure and the creation of a justice system that conformed to the principles of the Charter and international law. It appeared to have lost sight of the fact that the requirement of genuine reconciliation among the Congolese themselves and between the Congolese and nationals of the aggressor countries called for the urgent creation of a mechanism for elucidating crimes, apportioning blame and providing redress for the Congolese and foreign victims.

61. The Third Committee should discuss such issues with the utmost seriousness. Unfortunately, the text of the draft resolution totally disregarded those issues, which were essential to the success of the transition in

the Democratic Republic of the Congo, and had returned to obsolete debates on out-of-date issues that had nothing to do with the present, such as its determination to force the Government of National Unity and Transition to violate the transitional Constitution, including trespassing on Parliament's territory, especially with regard to the moratorium on the death penalty. Admittedly, the question of abolishing capital punishment had been raised before the transition. However, while the Government had been preparing public opinion for that new humanism, there had begun a new political phase of the peace process, directly linked to the inter-Congolese dialogue and firmly encouraged by the community of nations, to which his delegation appealed for respect for the decisions taken by the Congolese during that dialogue.

62. In any event, although the death penalty remained on the statute books, it was no longer applied, but only Parliament could decide whether to maintain it or remove it from Congolese law. The European Union was laboriously referring to agreements already implemented, instead of moving on to the restoration of relations between his country and its neighbours against the backdrop of ongoing preparations for the International Conference on Peace, Security and Democracy in the Great Lakes Region scheduled for June 2004.

63. His delegation was at a loss to understand why the sponsors of the draft resolution wished to involve neighbouring countries that had been militarily engaged in his country in the implementation of the transitional Constitution, which was a purely domestic matter. By the same token, with regard to paragraph 5 of the draft resolution, he drew the sponsors' attention to certain provisions of the transitional Constitution, which served as the country's Basic Law until such time as Parliament submitted the Constitution of the Third Republic for public approval. The briefest glance at the Constitution would have prevented the infelicities found in the draft resolution.

64. His delegation regretted that it had been denied the opportunity for detailed discussion of those issues with the European Union and that the text had been submitted without the least input from it. The scant exchanges between his delegation and that of Italy after submission of the text had been to no avail. However, his delegation would not vote against the draft resolution. The text did contain elements that would be helpful during the transition, and the European Union and some of its individual members implemented human rights promotion programmes appreciated by his Government. His delegation supported those efforts and hoped that they would be pursued on behalf of the Congolese people. It would abstain in the vote and appealed to the delegations that had always supported his country to do likewise.

65. **Mr. Nyamulinda** (Rwanda), speaking in explanation of vote before the voting, said that his delegation had hoped that a draft resolution on the Democratic Republic of the Congo could be adopted without a vote. However, the draft before the Committee lacked balance and, after voting against the fourth preambular paragraph and paragraphs 3 (b) and 6 (e), it would vote against the draft resolution as a whole. The Democratic Republic of the Congo and Rwanda had long-standing economic and social ties; political development in the former country had automatic repercussions on neighbouring countries. Rwanda hoped that the two countries could live in peace in a stable environment of respect for human rights. Such an initiative had begun with the Pretoria Agreement, itself an outcome of the inter-Congolese dialogue; his Government was prepared to work with the Democratic Republic of the Congo to boost the momentum in the Great Lakes Region and restoration of the rule of law and respect for human rights.

66. Regrettably, that momentum had not been reflected in the draft resolution, paragraph 4 of which employed language taken from resolutions adopted in the context of the war but subsequently overtaken by events. Moreover, no mention had been made of the abuses perpetrated by ex-FAR and Interahamwe forces among others, which remained the source of all the problems besetting the eastern part of the Democratic Republic of the Congo. As in previous years, the draft resolution before the Committee was unrealistic. He appealed to the European Union to take the positive momentum unleashed in the Great Lakes region into account in future. His delegation would vote against the draft resolution.

67. **Ms. Otiti** (Uganda), speaking in explanation of vote before the vote on draft resolution A/C.3/L.79/Rev.1, noted with respect to the statement made by the representative of the Democratic Republic of the Congo, to the effect that Uganda was still an occupying force in that country, that all Ugandan forces had withdrawn by June 2003, and that Uganda's presence had been premised upon legitimate security

concerns. The Uganda People's Defence Forces (UPDF) had never been an occupying force. The interim report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (A/58/534) was vague at best, indicating a lack of seriousness in addressing the issue, and draft resolution A/C.3/L.79/Rev.1 was similar in that regard. It did not take into account the continued presence of terrorist groups in the eastern regions of the Democratic Republic of the Congo, which threatened Uganda's security. Uganda had many concerns about the draft resolution, but those concerns had never been taken seriously into account by the major sponsors. Her delegation would vote against the draft resolution.

68. *A recorded vote was taken.*

In favour:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Bahamas, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Micronesia (Federated States of), Monaco, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against:

Belarus, Rwanda, Uganda.

Abstaining:

Algeria, Angola, Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Barbados, Belize, Benin, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, China, Congo, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Fiji, Gabon, Ghana, Guinea-Bissau, Guyana, Haiti, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Niger, Nigeria, Oman, Pakistan, Philippines, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, United Arab Emirates, United Republic of Tanzania, Zambia, Zimbabwe.

69. *The draft resolution was adopted by 74 votes to 3, with 85 abstentions.**

70. **Mr. Ileka** (Democratic Republic of the Congo), explaining his delegation's position, said that the high number of abstentions provided eloquent testimony to the views of the Committee, and should send a very clear message to the European Union. Moreover, the Committee should think hard next year about the way its members should work together.

71. **Ms. Zack** (United States of America) said that her delegation had voted in favour of the draft resolution, as a demonstration of its continued concern about the situation of human rights in the Democratic Republic of the Congo and its wish to see the situation resolved as soon as possible. However, it continued to have reservations about the International Criminal Court, and its support for the draft resolution did not indicate any change in that regard. Moreover, according to the International Covenant on Civil and Political Rights, the death penalty could be imposed "only for the most serious crimes" and in accordance with due process guarantees.

72. **Ms. Bethel** (Bahamas) said that her delegation had voted in favour of the text. International action such as that outlined in the resolution genuinely sought to improve the situation of human rights in the country concerned. However, its support for the resolution was without prejudice to its position on the death penalty, which was a matter for the jurisdiction of each State.

* The delegation of Myanmar subsequently informed the Committee that it had intended to vote in favour of the draft resolution.

73. **Mr. Taranda** (Belarus), explaining his delegation's position, said that it had voted against the draft resolution and opposed the adoption of country-specific resolutions, which did not contribute to the spirit of constructive cooperation with Governments and did not take into account countries' needs.

74. **Mr. Begg** (New Zealand), supported by **Ms. Pià Comella** (Andorra), **Mr. Choi** (Australia), **Mr. Cardoso** (Brazil), **Ms. Leyton** (Chile), **Ms. Uluiviti** (Fiji), **Ms. Gunnarsdóttir** (Iceland), **Mr. Cavallari** (Italy), **Mr. Hyassat** (Jordan), **Ms. Matekane** (Lesotho), **Mr. Nürnberg** (Norway), **Ms. Molarino** (San Marino) and **Ms. Zack** (United States of America), regretted the procedural debate preceding the vote. It had detracted from the importance of the resolution and from the decorum of the Committee. Furthermore, the ruling the Chairman had given on the procedure to be followed for the resolution under discussion did not agree with the general procedural ruling he had given a week previously. His delegation wished to place on record that it had requested clarification of that matter, but had not received such a clarification.

75. **Mr. Faati** (Gambia) said that it was his delegation's understanding that rule 129 was applicable when separate votes were requested on separate paragraphs. The Chairman was obliged to follow the rules of procedure. The Committee should vote on draft resolutions as a whole.

76. **Ms. Groux** (Switzerland) welcomed the constructive approach of the representative of the Democratic Republic of the Congo, who had appealed to Committee members to abstain rather than vote against the resolution. With regard to the procedural debate that had taken place before the adoption of the resolution, her delegation did not challenge the Chairman's interpretation of rule 129 as requiring a vote on the resolution as a whole after a separate vote. However, that did not change the prerogative of delegations to explore the possibility of a consensus vote.

77. **Ms. Sonaike** (Nigeria) said that her delegation was pleased that the Committee had deviated from practice on the application of rule 129. Whenever individual parts of a resolution were put to a vote, the rules required that the whole resolution also be put to a vote.

78. **Mr. Konfourou** (Mali) said that the vote that had just taken place effectively closed the discussion on the matter, and his delegation regretted that it had not taken place sooner.

79. **Mr. Roshdy** (Egypt) said that it was his delegation's understanding that the Committee had just adopted an interpretation of rule 129 and that members had supported the interpretation that, whenever a part of a resolution was voted on, the entire resolution should also be put to a vote.

80. **Mr. Moutari** (Niger) supported the statements made by the representatives of Nigeria, Mali and Egypt and welcomed the fact that the Committee had, through the Chairman's ruling, established the correct interpretation of rule 129.

81. **Mr. Schurti** (Liechtenstein) said that his delegation very much regretted the fact that a procedural debate had taken place. He had taken note of the fact that the Chairman had not applied his earlier ruling on rule 129 and wished to state for the record that his delegation continued to have the same understanding of the rule that had been provided by the Office of Legal Affairs, and indeed earlier by the Chairman.

82. **Ms. Faye** (Senegal), supported by **Ms. Elisha** (Benin), **Ms. Astanah** (Malaysia), **Ms. Hamid** (Saudi Arabia) and **Ms. Al Haj Ali** (Syrian Arab Republic), said that her delegation fully supported the Chairman's ruling on the application of rule 129. She believed, however, that the Committee should debate the rule at some future date.

83. **Ms. Ahmed** (Sudan) said that her delegation shared the Malian representative's regret that the Committee had not proceeded to vote on the resolution immediately. She would have preferred that the Committee focus on the substance of the discussion. As the representative of the Democratic Republic of the Congo had observed, it was regrettable that the Committee was spending its time on procedural matters rather than focusing on people's suffering.

84. **Mr. Andrabi** (Pakistan) said that his delegation wished to join the delegations of Egypt, Mali and the Sudan in supporting the Chairman's interpretation of rule 129. The Committee had clearly expressed the view that a proposal voted on in parts must also be voted on as a whole. It was therefore regrettable that

some delegations continued to challenge the Committee's decision.

85. **Mr. Nyamulinda** (Rwanda) said that his delegation had been shocked and offended by the statement of the representative of the Democratic Republic of the Congo. Rwanda's troops had been withdrawn on 30 July 2002 and none now remained. That withdrawal had been the result of very painstaking negotiations between the two countries. He hoped that the statement of the representative of the Democratic Republic of the Congo did not truly reflect the position of the Congolese Government. For its part, the Rwandan Government supported the Inter-Congolese Dialogue and wished to work with the Democratic Republic of the Congo to restore confidence, a spirit of good-neighbourliness, political and economic cooperation, peace, and security in the Democratic Republic of the Congo and throughout the Great Lakes region.

The meeting rose at 1.15 p.m.